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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,096	01/31/2002	Vernon George Constien	M3245.003	1798
23875	7590	10/10/2003	EXAMINER	
MOLLY D MCKAY, PC 3207 E 22ND STREET TULSA, OK 74114-1823			TUCKER, PHILIP C	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/062,096	CONSTIEN, VERNON GEORGE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Philip C Tucker	1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-13 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 8,14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claims Interpretation*

*Applicants claimed composition is inted to be used as a coating for a wellbore screen, however such is not seen as a specific limitation, since a novel intended use does not distinguish over a known composition (In re Pearson 181 USPQ 641).*

### **Claim Rejections - 35 USC § 102**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 5 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Gupta (5437331).

Gupta teaches a composition comprising a chemical binder and an enzyme within the scope of the present invention (see claims and column 8, lines 15-34).

3. Claims 1, 5, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Dawson (5624886).

Dawson teaches a composition for use in wellbores which comprises a silicate binder and chemicals such as sodium EDTA and calcium peroxide (see Example 1).

4. Claims 1, 2, 5, 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Burnham (4202795).

Burnham teaches a wellbore fluid which comprises a pellet containing a binder and an enzyme (see claims 1 and 6).

5. Claims 1-5 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by King (4919209).

King teaches a composition for use in a wellbore which comprises a pellet containing a wax within the scope of the present invention, and a chemical such as calcium oxide and nitrobenzoic acid (see column 3, lines 12-25).

6. Claims 1, 2, 5, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Clark et al (4986353).

Clark teaches a well composition which contains a pellet which contains a binder and various reactive chemicals, such as formic acid ( see column 3, lines 1-21 and claims).

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7. Claims 1-3, 5, 7, 9-13, 16, 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Muir (6162766).

Muir teaches a wellbore chemical which comprises a binder and a reactive material such as enzymes, persulfates and citric acid (see column 3, lines 51-62).

8. Claims 1, 5 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Amin et al (6184184).

Amin teaches a wellbore composition which comprises a binder and calcium peroxide (see claims and column 4, lines 13-19).

9. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Acker (6187720).

Acker teaches a wellbore composition which comprises a base reactive material and a wax within the scope of the present invention (see examples and claims).

10. Claims 1-3, 5, 7, 16, 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Gonzalez (6207620).

Gonzalez teaches a wellbore composition which comprises a binder and a reactive acid within the scope of the present invention (see claims 1-3).

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11. Claims 1 and 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Kowalski et al (6326335).

Kowalski teaches a wellbore chemical composition which comprises a gelatin binder and reactive chemicals such as EDTA salts (see claims and examples).

12. Claims 1, 2, 5, 7, 9-13, 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Norman (6357527).

Norman teaches a wellbore composition which comprises a binder and a reactive chemical, such as citric acid, persulfates and enzymes (see claims 1 and 3).

13. Claims 8, 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


14. With respect to the SELECT INDUSTRIES reference, information is requested as to the date which such was obtained, since if such was prior to applicants invention, it appears to be prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Tucker whose telephone number is 703-308-0529. The examiner can normally be reached on Monday - Friday, Flexible schedule.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Philip C Tucker  
Primary Examiner  
Art Unit 1712

PCT-2890